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TREASURY FOR MICHAEL JACOBSON/JIM FREIS

E.O. 12958: DECL: 12/11/2016
TAGS: EFIN PTER ECON GM
SUBJECT: NEXT STEPS ON THE TFTP -- GERMAN REACTION

REF: STATE 194473

Classified By: DCM JOHN M. KOENIG FOR REASONS 1.4(C) AND (D)

¶1. (C) Summary: Germany is not contemplating any immediate
action in response to the November 22 report of the EU's
Article 29 Working Party that concluded that SWIFT violated
the EU's Data Privacy Directive by exporting data to the U.S.
 Nevertheless, German officials believe SWIFT will come under
increasing pressure from EU states to modify its cooperative
arrangement with the U.S. to ensure compliance with European
data-privacy laws and regulations. The Germans cite
perceived lack of transparency regarding SWIFT's activities,
together with high-profile media coverage of the SWIFT-TFTP
connection, as contributing factors to the high level of
public concern about SWIFT's activities. Mission has
delivered the demarche points to the Foreign Ministry
(Counter-Terrorism Coordinator von Alvensleben), Finance
Ministry (State Secretary Mirow) and the Chancellery
(Economic Director General Weidmann). We will also meet with
Interior Ministry Deputy Director General for
Counter-Terrorism Policy Schindler to discuss the issue
further. End Summary.

¶2. (C) DCM met December 5 with Ambassador Busso von
Alvensleben, German Federal Commissioner for Combatting
International Terrorism, to urge restraint in the official
German response to the conclusions of the EU report. The DCM
stressed the importance of the SWIFT-TFTP cooperative
arrangement, outlined the safeguards inherent in the TFTP and
assured him that the U.S. takes seriously data-privacy
concerns. He noted that SWIFT has taken steps to introduce
"informed consent language" to ensure that customers are
notified that their data could be exported to the U.S.

¶3. (C) Von Alvensleben agreed with the DCM that data privacy
concerns needed to be weighed against counterterrorism goals
and priorities and welcomed USG willingness to engage
constructively on the issue. He said the German Government
did not doubt the effectiveness of U.S. data-protection
measures and that the SWIFT-TFTP disclosures will not/not
lead to any "atmospheric changes" in our bilateral CT
cooperation. Still, von Alvensleben contended SWIFT had
handled the issue badly from the start. There has been a lot
of customer grumbling about not having been informed of the
program and there is continuing suspicion of the scope and
motives of SWIFT-TFTP cooperation. The issue of data
protection is important to the German public, he said.
German bank customers need to be reassured that their
personal data are not being misused in any way. This is a
political problem that Germany and other EU states will have
to address, von Alvensleben said.

¶4. (C) Asked by the DCM what concrete steps Germany plans to
take in response to the EU Working Party's findings, von

Alvensleben said no immediate measures are foreseen at this
point. Germany will proceed cautiously and with a view
toward reconciling the need for data protection with the goal
of effective counterterrorism meaures.

¶5. (C) In a December 7 meeting with Fimnance Ministry State
Secretary Thomas Mirow, EMIN also delivered the demarche

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points. Mirow said he would meet with Deputy Treasury
Secretary Kimmitt the week of December 11 and SWIFT would be

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one of the topics they would discuss. He noted he wanted to
see the assessment of experts on compliance. Mirow too noted
the difficulty of the subject, particularly for the European
and EU member state parliaments. Germany understands our
arguments, but needs to take a critical look at SWIFT given
the controversy, Mirow continued.

¶6. (C) Chancellery Director Weidmann was not fully
acquainted with recent developments concerning SWIFT and
TFTP. He undertook to look into the matter in light of our
points.
TIMKEN JR